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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
|-----------------|-------------|----------------------|---------------------|------------------|
| 09/888,907      | 06/25/2001  | Gregory H. Scott     | KEJR.84164          | 1191             |

7590 04/16/2003  
Michael J. Gross  
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EXAMINER

NOLAND, THOMAS

ART UNIT PAPER NUMBER

2856

DATE MAILED: 04/16/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

# Office Action Summary

Application No.

09/888,907

Applicant(s)

Scott et al

Examiner

Tom N. L. J

Group Art Unit

2872

—The MAILING DATE of this communication appears on the cover sheet beneath the correspondence address—

## Period for Reply

3

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE \_\_\_\_\_ MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, such period shall, by default, expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).

## Status

- ☒ Responsive to communication(s) filed on Jan 22, 2007
- ☐ This action is **FINAL**.
- ☐ Since this application is in condition for allowance except for formal matters, **prosecution as to the merits is closed** in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11; 453 O.G. 213.

## Disposition of Claims

- ☒ Claim(s) 1-17 is/are pending in the application.
- Of the above claim(s) 16-17 is/are withdrawn from consideration.
- ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- ☒ Claim(s) 1-8, 11 and 13-14 is/are rejected.
- ☒ Claim(s) 9-10, 12 and 15 is/are objected to.
- ☐ Claim(s) \_\_\_\_\_ are subject to restriction or election requirement.

## Application Papers

- ☐ See the attached Notice of Draftsperson's Patent Drawing Review, PTO-948.
- ☐ The proposed drawing correction, filed on \_\_\_\_\_ is ☐ approved ☐ disapproved.
- ☐ The drawing(s) filed on \_\_\_\_\_ is/are objected to by the Examiner.
- ☐ The specification is objected to by the Examiner.
- ☐ The oath or declaration is objected to by the Examiner.

## Priority under 35 U.S.C. § 119 (a)-(d)

- ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d).
- ☐ All ☐ Some\* ☐ None of the CERTIFIED copies of the priority documents have been
- ☐ received.
- ☐ received in Application No. (Series Code/Serial Number) \_\_\_\_\_.
- ☐ received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

\*Certified copies not received: \_\_\_\_\_

## Attachment(s)

- ☐ Information Disclosure Statement(s), PTO-1449, Paper No(s). \_\_\_\_\_
- ☒ Notice of Reference(s) Cited, PTO-892
- ☐ Notice of Draftsperson's Patent Drawing Review, PTO-948
- ☐ Interview Summary, PTO-413
- ☐ Notice of Informal Patent Application, PTO-152
- ☐ Other \_\_\_\_\_

Office Action Summary

Art Unit: 2856

1. Applicant's election with traverse of the invention of group 1, claims 1-15 in Paper No. 3, filed Jan. 27, 2003 is acknowledged. The traversal is on the ground(s) that applicant does not understand how making a liner have a reduced thickness in certain areas would allow easier injection of a treating chemical and thus the examiner's proposed alternative use is not a convincing one. This is not found persuasive because clearly such a reduced thickness area would allow for ease of insertion of the needle of a syringe for treatment of the material contained with a liner compared with areas of greater thickness and it is known to treat samples with injected materials. The restriction out of claim 17 from group 1 was apparently not traversed.

The requirement is still deemed proper and is therefore made FINAL.

2. Claim 16 is withdrawn from further consideration pursuant to 37 CFR 1.142(b), as being drawn to a nonelected invention, there being no allowable generic or linking claim. Applicant timely traversed the restriction (election) requirement in Paper No. 3.

3. Claim 17 is withdrawn from further consideration pursuant to 37 CFR 1.142(b) as being drawn to a nonelected invention, there being no allowable generic or linking claim. Election was made without traverse in Paper No. 3.

4. Applicant is requested to cancel claims 16-17 in any response hereto.

Art Unit: 2856

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

6. Claims 1-8, 11 and 13-14 are rejected under 35 U.S.C. 103(a) as being unpatentable over Mielke U.S. 3,872,935 in view of Kaczerwaski U.S. 4,611,350.

Mielke et al shows a plastic soil sample liner substantially as claimed but does not show an area of reduced thickness as claimed. However, Kaczerwaski shows that it is known to make flexible liners with an area of reduced thickness to facilitate insertion for a snug fit of the liner. It would have been an obvious expedient to have incorporated such a reduced area into the liner of Mielke to make for snugger liner insertion. The exact dimensions of the liner area portions would have been obvious design expedients suggested by intended use. Those claimed appear to be typical for such liners. Transparent plastic materials for liners would have been obvious to facilitate viewing of the sample and because similar transparent flexible liners are known.

7. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. The cited references show the use of liners in soil or core samplers.

Art Unit: 2856


8. Claims 9-10, 12 and 15 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

9. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Tom Noland whose telephone number is (703) 305-4765. The examiner can normally be reached on weekdays from 9:00 to 5:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Mr. Hezron E. Williams, can be reached on (703) 305-4705.

The fax phone number for the organization where this application or proceeding is assigned is (703) 308-7722.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-0956.

4/15/03  
Thomas P. Noland  
Primary Examiner  
Art Unit 2856  


Noland/ek  
04/14/03